

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**BILL DRAFT 2007-LAz-20 [v.4] (4/25)**

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)**  
**4/29/2008 3:14:37 PM**

Short Title: Modify Ownership of PUV Property.

(Public)

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Sponsors: Unknown.

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY THE OWNERSHIP REQUIREMENTS OF PRESENT-USE  
3 VALUE PROPERTY TO REFLECT COMMON FORMS OF LAND  
4 OWNERSHIP.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 105-277.2 reads as rewritten:

7 **"§ 105-277.2. Agricultural, horticultural, and forestland – Definitions.**

8 The following definitions apply in G.S. 105-277.3 through G.S. 105-277.7:

9 (1) Agricultural land. – Land that is a part of a farm unit that is actively  
10 engaged in the commercial production or growing of crops, plants, or  
11 animals under a sound management program. Agricultural land  
12 includes woodland and wasteland that is a part of the farm unit, but the  
13 woodland and wasteland included in the unit must be appraised under  
14 the use-value schedules as woodland or wasteland. A farm unit may  
15 consist of more than one tract of agricultural land, but at least one of  
16 the tracts must meet the requirements in G.S. 105-277.3(a)(1), and  
17 each tract must be under a sound management program. If the  
18 agricultural land includes less than 20 acres of woodland, then the  
19 woodland portion is not required to be under a sound management  
20 program. Also, woodland is not required to be under a sound  
21 management program if it is determined that the highest and best use  
22 of the woodland is to diminish wind erosion of adjacent agricultural  
23 land, protect water quality of adjacent agricultural land, or serve as  
24 buffers for adjacent livestock or poultry operations.

25 (1a) Business entity. – A corporation, a general partnership, a limited  
26 partnership, or a limited liability company.

- 1 (2) Forestland. – Land that is a part of a forest unit that is actively engaged  
2 in the commercial growing of trees under a sound management  
3 program. Forestland includes wasteland that is a part of the forest unit,  
4 but the wasteland included in the unit must be appraised under the  
5 use-value schedules as wasteland. A forest unit may consist of more  
6 than one tract of forestland, but at least one of the tracts must meet the  
7 requirements in G.S. 105-277.3(a)(3), and each tract must be under a  
8 sound management program.
- 9 (3) Horticultural land. – Land that is a part of a horticultural unit that is  
10 actively engaged in the commercial production or growing of fruits or  
11 vegetables or nursery or floral products under a sound management  
12 program. Horticultural land includes woodland and wasteland that is a  
13 part of the horticultural unit, but the woodland and wasteland included  
14 in the unit must be appraised under the use-value schedules as  
15 woodland or wasteland. A horticultural unit may consist of more than  
16 one tract of horticultural land, but at least one of the tracts must meet  
17 the requirements in G.S. 105-277.3(a)(2), and each tract must be under  
18 a sound management program. If the horticultural land includes less  
19 than 20 acres of woodland, then the woodland portion is not required  
20 to be under a sound management program. Also, woodland is not  
21 required to be under a sound management program if it is determined  
22 that the highest and best use of the woodland is to diminish wind  
23 erosion of adjacent horticultural land or protect water quality of  
24 adjacent horticultural land. Land used to grow horticultural and  
25 agricultural crops on a rotating basis or where the horticultural crop is  
26 set out or planted and harvested within one growing season, may be  
27 treated as agricultural land as described in subdivision (1) of this  
28 section when there is determined to be no significant difference in the  
29 cash rental rates for the land.
- 30 (4) Individually owned. – Owned by one of the following:  
31 a. An individual.  
32 b. A business entity that meets all of the following  
33 conditions:  
34 1. Its principal business is farming agricultural land,  
35 horticultural land, or forestland.  
36 2. All of its members are, directly or indirectly, individuals  
37 who are actively engaged in farming agricultural land,  
38 horticultural land, or forestland or a relative of one of the  
39 individuals who is actively engaged. An individual is  
40 indirectly a member of a business entity if the members  
41 of the business entity include another business entity or a  
42 trust and the individual is a member of the other business  
43 entity or is a beneficiary of the trust.

3. It is not a corporation whose shares are publicly traded and none of its members are corporations whose shares are publicly traded.
  4. If it leases the land, all of its members are individuals and are relatives. Under this condition, 'principal business' and 'actively engaged' include leasing.
  - c. A trust that meets all of the following conditions:
    1. It was created by an individual who owned the land and transferred the land to the trust.
    2. All of its beneficiaries are, directly or indirectly, individuals who are the creator of the trust or a relative of the creator. An individual is indirectly a beneficiary of a trust if the beneficiaries of the trust include another trust or a business entity and the individual is a beneficiary of the other trust or a member of the business entity.
  - d. A testamentary trust that meets all of the following conditions:
    1. It was created by an individual who transferred to the trust land that qualified in that individual's hands for classification under G.S. 105-277.3.
    2. At the date of the creator's death, the creator had no relatives.
    3. The trust income, less reasonable administrative expenses, is used exclusively for educational, scientific, literary, cultural, charitable, or religious purposes as defined in G.S. 105-278.3(d).
  - e. Tenants in common, if each tenant would qualify as an owner if the tenant were the sole owner. Tenants in common may elect to treat their individual shares as owned by them individually in accordance with G.S. 105-302(c)(9). The ownership requirements of G.S. 105-277.3(b) apply to each tenant in common who is an individual, and the ownership requirements of G.S. 105-277.3(b1) apply to each tenant in common who is a business entity or a trust.
- (4a) Member. – A shareholder of a corporation, a partner of a general or limited partnership, or a member of a limited liability company.
- (5) Present-use value. – The value of land in its current use as agricultural land, horticultural land, or forestland, based solely on its ability to produce income and assuming an average level of management. A rate of nine percent (9%) shall be used to capitalize the expected net income of forestland. The capitalization rate for agricultural land and horticultural land is to be determined by the Use-Value Advisory Board as provided in G.S. 105-277.7.
- (5a) Relative. – Any of the following:

- a. A spouse or the spouse's lineal ancestor or descendant.
  - b. A lineal ancestor or a lineal descendant.
  - c. A brother or sister, or the lineal descendant of a brother or sister. For the purposes of this sub-subdivision, the term brother or sister includes stepbrother or stepsister.
  - d. An aunt or an uncle.
  - e. A spouse of an individual listed in paragraphs a. through d. For the purpose of this subdivision, an adoptive or adopted relative is a relative and the term "spouse" includes a surviving spouse.
- (6) Sound management program. – A program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement.
- (7) Unit. – One or more tracts of agricultural land, horticultural land, or forestland. Multiple tracts must be under the same ownership and be of the same type of classification. If the multiple tracts are located within different counties, they must be within 50 miles of a tract qualifying under G.S. 105-277.3(a). "

**SECTION 2.** G.S. 105-277.3 reads as rewritten:

**"§ 105-277.3. Agricultural, horticultural, and forestland – Classifications.**

(a) Classes Defined. – The following classes of property are designated special classes of property under authority of Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7.

- (1) Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which satisfies the requirements of this subdivision. For agricultural land used as a farm for aquatic species, as defined in G.S. 106-758, the tract must meet the income requirement for agricultural land and must consist of at least five acres in actual production or produce at least 20,000 pounds of aquatic species for commercial sale annually, regardless of acreage. For all other agricultural land, the tract must meet the income requirement for agricultural land and must consist of at least 10 acres that are in actual production. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

To meet the income requirement, agricultural land must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004.

- 1           (2)   Horticultural land. – Individually owned horticultural land consisting  
2           of one or more tracts, one of which consists of at least five acres that  
3           are in actual production and that, for the three years preceding January  
4           1 of the year for which the benefit of this section is claimed, have met  
5           the applicable minimum gross income requirement. Land in actual  
6           production includes land under improvements used in the commercial  
7           production or growing of fruits or vegetables or nursery or floral  
8           products. Land that has been used to produce evergreens intended for  
9           use as Christmas trees must have met the minimum gross income  
10          requirements established by the Department of Revenue for the land.  
11          All other horticultural land must have produced an average gross  
12          income of at least one thousand dollars (\$1,000). Gross income  
13          includes income from the sale of the horticultural products produced  
14          from the land and any payments received under a governmental soil  
15          conservation or land retirement program.
- 16          (3)   Forestland. – Individually owned forestland consisting of one or more  
17          tracts, one of which consists of at least 20 acres that are in actual  
18          production and are not included in a farm unit.
- 19          (b)   Individual Ownership Requirements. – In order to come within a  
20          classification described in subsection (a) of this section, land owned by an individual  
21          must also satisfy one of the following conditions:
- 22                  (1)   It is the owner's place of residence.
- 23                  (2)   It has been owned by the current owner or a relative of the current  
24                  owner for the four years preceding January 1 of the year for which the  
25                  benefit of this section is claimed.
- 26                  (3)   At the time of transfer to the current owner, it qualified for  
27                  classification in the hands of a business entity or trust that transferred  
28                  the land to the current owner who was a member of the business entity  
29                  or a beneficiary of the trust, as appropriate.
- 30          (b1)   Entity Ownership Requirements. – In order to come within a classification  
31          described in subsection (a) of this section, land owned by a business entity or trust  
32          must have been owned by the business entity or trust or by one or more of its members  
33          or creators, respectively, for the four years immediately preceding January 1 of the year  
34          for which the benefit of this section is claimed.
- 35          (b2)   Exceptions to Ownership Requirements. – Notwithstanding the provisions of  
36          subsections (b) and (b1) of this section, land may qualify for classification in the hands  
37          of the new owner if all of the conditions listed in either subdivision of this subsection  
38          are met, even if the new owner does not meet all of the ownership requirements of  
39          subsections (b) and (b1) of this section with respect to the land.
- 40                  (1)   Continued use. – If the land qualifies for classification in the hands of  
41                  the new owner under the provisions of this subdivision, then any  
42                  deferred taxes remain a lien on the land under G.S. 105-277.4(c), the  
43                  new owner becomes liable for the deferred taxes, and the deferred  
44                  taxes become payable if the land fails to meet any other condition or

1 requirement for classification. Land qualifies for classification in the  
2 hands of the new owner if all of the following conditions are met:

- 3 a. The land was appraised at its present use value at the time title  
4 to the land passed to the new owner.  
5 b. The new owner acquires the land and continues to use the land  
6 for the purpose for which it was classified under subsection (a)  
7 of this section while under previous ownership.  
8 c. The new owner has timely filed an application as required by  
9 G.S. 105-277.4(a) and has certified that the new owner accepts  
10 liability for any deferred taxes and intends to continue the  
11 present use of the land.

12 (2) Expansion of existing unit. – Land qualifies for classification in the  
13 hands of the new owner if, at the time title passed to the new owner,  
14 the land was not appraised at its present-use value but was being used  
15 for the same purpose and was eligible for appraisal at its present-use  
16 value as other land already owned by the new owner and classified  
17 under subsection (a) of this section. The new owner must timely file an  
18 application as required by G.S. 105-277.4(a).

19 (c) Repealed by Session Laws 1995, c. 454, s. 2.

20 (d) Exception for Conservation Reserve Program. – Land enrolled in the federal  
21 Conservation Reserve Program authorized by 16 U.S.C. Chapter 58 is considered to be  
22 in actual production, and income derived from participation in the federal Conservation  
23 Reserve Program may be used in meeting the minimum gross income requirements of  
24 this section either separately or in combination with income from actual production.  
25 Land enrolled in the federal Conservation Reserve Program must be assessed as  
26 agricultural land if it is planted in vegetation other than trees, or as forestland if it is  
27 planted in trees.

28 (d1) Exception for Easements on Qualified Conservation Lands Previously  
29 Appraised at Use Value. – Property that is appraised at its present-use value under G.S.  
30 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as  
31 provided in G.S. 105-277.2 through G.S. 105-277.7 as long as the property is subject to  
32 an enforceable conservation easement that would qualify for the conservation tax credit  
33 provided in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual production  
34 or income requirements of this section. Notwithstanding G.S. 105-277.3(b) and (b1),  
35 subsequent transfer of the property does not extinguish its present-use value eligibility  
36 as long as the property remains subject to an enforceable conservation easement that  
37 qualifies for the conservation tax credit provided in G.S. 105-130.34 and G.S.  
38 105-151.12. The exception provided in this subsection applies only to that part of the  
39 property that is subject to the easement.

40 (e) Exception for Turkey Disease. – Agricultural land that meets all of the  
41 following conditions is considered to be in actual production and to meet the minimum  
42 gross income requirements:

- (1) The land was in actual production in turkey growing within the preceding two years and qualified for present use value treatment while it was in actual production.
- (2) The land was taken out of actual production in turkey growing solely for health and safety considerations due to the presence of Poultry Enteritis Mortality Syndrome among turkeys in the same county or a neighboring county.
- (3) The land is otherwise eligible for present use value treatment.

(f) Sound Management Program for Agricultural Land and Horticultural Land. – If the property owner demonstrates any one of the following factors with respect to agricultural land or horticultural land, then the land is operated under a sound management program:

- (1) Enrollment in and compliance with an agency-administered and approved farm management plan.
- (2) Compliance with a set of best management practices.
- (3) Compliance with a minimum gross income per acre test.
- (4) Evidence of net income from the farm operation.
- (5) Evidence that farming is the farm operator's principal source of income.
- (6) Certification by a recognized agricultural or horticultural agency within the county that the land is operated under a sound management program.

Operation under a sound management program may also be demonstrated by evidence of other similar factors. As long as a farm operator meets the sound management requirements, it is irrelevant whether the property owner received income or rent from the farm operator.

(g) Sound Management Program for Forestland. – If the owner of forestland demonstrates that the forestland complies with a written sound forest management plan for the production and sale of forest products, then the forestland is operated under a sound management program."

**SECTION 3.** This act is effective for taxes imposed for taxable years beginning on or after July 1, 2008. Notwithstanding G.S. 105-277.4(a), an application submitted for the 2008-2009 tax year under G.S. 105-277.4 for the classification of land owned by a business entity or a trust is considered timely if it is filed on or before September 1, 2008.